

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	CHAPTER 11
	:	
BAUDAX BIO, INC.	:	Case No. 24-10583 (MDC)
	:	
Debtor	:	
	:	

**VERIFIED STATEMENT OF SMITH KANE HOLMAN, LLC
TO BE EMPLOYED AS COUNSEL BY DEBTOR**

David B. Smith, on behalf of Smith Kane Holman, LLC, as the proposed counsel for Baudax Bio, Inc. (“Debtor”), pursuant to Bankruptcy Rule 2014(a) and Local Bankruptcy Rule 2014-1 respectfully represents:

1. The above-captioned Debtor filed a voluntary petition pursuant to chapter 11 of the United States Bankruptcy Code on February 22, 2024 (the “Petition Date”).
2. The Debtor wishes to employ Smith Kane Holman, LLC (“SKH”) as counsel in connection with its case.
3. On January 5, 2024, the Debtor engaged SKH to provide debt counseling services, including the possibility of filing a chapter 11 bankruptcy case. At the time of the engagement, the Debtor was exploring whether it could get the consent and approval of its secured lender to file a chapter 11 bankruptcy case, which was necessary because the Debtor had to incur expenses, including paying SKH the requested retainer of \$100,000.00, all of which required use of funds that constituted the secured creditor’s collateral. Secured creditor approval was obtained in or around the beginning of February and, accordingly, on February 2, 2024, the Debtor remitted the sum of \$100,000.00 to SKH’s IOLTA account.
4. The foregoing \$100,000.00 payment by the Debtor was to be first used by SKH to

pay for fees and expenses incurred by SKH as of that time, with the balance to act as a retainer for future fees and expenses incurred by SKH.

5. Consistent with that, SKH has generated an invoice through February 2, 2024 for fees of \$6,483.00 and costs of \$117.06 for a combined amount of \$6,600.06.

6. Thereafter, SKH generated a second invoice from February 3, 2024 through the Petition Date, which consisted of fees in the amount of \$17,413.50, along with the filing fee for the within case of \$1,738.00 or a combined amount of \$19,151.50, all of which was paid from the retainer SKH received on February 2, 2024.

7. The balance of the retainer in the amount of \$74,248.44 will continue to be held in SKH's IOLTA account and act as a retainer payable towards SKH's post-petition fees and expenses under and subject to approval by the Bankruptcy Court after the filing by SKH of an appropriate application(s) for compensation.

8. As required pursuant to Local Bankruptcy Rule 2014-1, SKH makes disclosures on the attached Exhibit A with respect to payments received by SKH within the 90-day period preceding the Petition Date. As set forth in the attached disclosures, SKH received the sum of \$6,600.06 on account of fees and expenses incurred prior to its receipt of the \$100,000.00 retainer on February 2, 2024. This amount is less than the \$7,575.00 threshold for a preference payment pursuant to 11 U.S.C. § 547(c)(9). Furthermore, the payment was made pursuant to SKH's ordinary course of business terms, which is either 10 or 30 days from the invoice date (depending upon the nature of the case). Here, the payment was applied on account of SKH's January billing cycle two days after the end of the January invoice period and, accordingly, was made pursuant to SKH's ordinary business terms.

9. SKH believes it has no connection with the Debtor, the Debtor's creditors, or any

other party in interest (or their respective attorneys and accountants, the United States Trustee or any person employed in the Office of the United States Trustee) that would disqualify it from representing the Debtor in this case.

10. SKH is not a creditor of the Debtor.

11. SKH has represented bankrupt debtors and is able to perform services required by the Debtor relating to its chapter 11 bankruptcy case.

I, David B. Smith, managing member of Smith Kane Holman, LLC, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

SMITH KANE HOLMAN, LLC

Date: February 23, 2024

By: /s/ David B. Smith
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